

The Corporation Journal

THE CORPORATION TRUST COMPANY

37 Wall Street, New York

Affiliated with

The Corporation Trust Company System

15 Exchange Place, Jersey City

Organized 1892

Boston, 53 State Street
(Corporation Registration Company)
Chicago, 112 W. Adams Street
Los Angeles, Title Insurance Bldg.
(The Corporation Company)
Pittsburgh, 1202 Oliver Bldg.

Washington, D. C., 501 Colorado Bldg.
Philadelphia, 1425 Land Title Bldg.
Portland, Me., 281 St. John Street
St. Louis Federal Reserve Bank Bldg.
Wilmington, 4108 duPont Bldg.
(Corporation Trust Co. of America)

No. 89. Vol. 3.

April, 1919

Pages 357-376

Tax Exempt Features of the Victory Loan



THE $4\frac{3}{4}\%$ Notes of the new loan, both as to principal and interest, are exempt from local, State, and Federal taxes, except estate or inheritance taxes and individual income sur-taxes, and excess-profits and war-profits taxes imposed by the United States. They will at all times be convertible into $3\frac{3}{4}\%$ tax free notes.

The $3\frac{3}{4}\%$ tax free notes are, without limit as to amount of notes held, exempt from all taxation except estate or inheritance taxes.

THE CORPORATION JOURNAL

THE POLICY OF THE CORPORATION TRUST COMPANY IN THE ORGANIZATION, QUALIFICATION, STATUTORY REPRESENTATION AND MAINTENANCE OF CORPORATIONS, IS TO DEAL EXCLUSIVELY WITH MEMBERS OF THE BAR.

The object of The Corporation Journal is to furnish corporation attorneys, and others interested, with a brief account of current happenings, recent court decisions, new laws, etc. Lengthy discussion is avoided, the purpose being to make the publication a memorandum for the busy attorney upon which he may rely for accuracy and to which he may conveniently refer. Cross references are made to preceding pages and a cumulative index is issued from time to time. The Corporation Journal is issued monthly except in July and August. It is sent without charge to those who request to be placed upon the mailing list.

THE CORPORATION JOURNAL should be kept in a binder for convenient reference. We furnish a substantial loose-leaf binder for \$1.50.

DOMESTIC CORPORATIONS.

ARIZONA.

FAILURE OF STATUTORY AGENT TO NOTIFY CORPORATION WITH RESPECT TO PROCESS SERVED UPON HIM. MARKED CONTRAST OF THE CORPORATION TRUST COMPANY'S SYSTEM. The Supreme Court of Arizona reverses the lower court and upholds a default judgment taken against a corporation which had failed to appear and defend an action because its statutory agent had not forwarded the summons to it or notified it that he had been served with process. The lower court upon a finding of surprise, inadvertence and excusable neglect, vacated the judgment. This finding was based wholly upon the affidavit of the statutory agent, which was as follows:

"John O. Dunbar, being first duly sworn, says that he * * * is statutory agent for the Arizona Enterprise Mining Company, a corporation, defendant in the above entitled action; that at or about the hour of 1:30 o'clock P. M. on the 16th day of November, 1917, he was served as statutory agent for the Arizona Enterprise Mining Company, a corporation, with a copy of said summons and complaint in the above entitled cause, by Beryl Prouty; that he still has in his possession said copy of said summons and complaint and has had it in his possession since the same was served upon him for the reason that he did not know the address of the said Arizona Enterprise Mining Company, a corporation, or the address of its officers, and was therefore unable to notify them of the pendency of the above entitled action."

In reversing the lower court, the Supreme Court of Arizona says:

"Can the negligence of the statutory agent in not notifying the defendant of the pendency of the suit because 'he did not know the address of the company' be considered 'excusable neglect'? We think not. It must be conceded that it was the duty of the agent to promptly forward the summons to the proper officers of the

THE CORPORATION JOURNAL

company. There is no showing that he made any effort to ascertain the address of any of the defendant's officers. Nothing of that nature is disclosed. It appears that the principal works of the company are situated at or near Bouse in the adjoining county to the one in which the agent resides. Furthermore, the statute requires that the articles of incorporation of every corporation organized under the laws of this state shall contain 'the names, residences, post office addresses of the corporators, the name of the corporation, its principal place of business.' R. S. Ariz. 1913, par. 2100. These articles are required to be filed in the office of the Arizona Corporation Commission. It is too plain to be questioned that if the agent had made any reasonable effort to discover the address of any officer of the company he would have succeeded, and it must be held that he was culpably negligent in not doing so, and that his negligence was the defendant's negligence.

"In *Reese Lbr. Co. vs. Licking Coal & Lbr. Co.*, 156 Ky. 723, 161 S. W. 1124, it was held that the negligence of an agent is imputable to the principal and, consequently, that the failure of an agent appointed by a corporation to receive service of process to notify the corporation of the service, though preventing the corporation from making a defense to the action, was not an unavoidable casualty or misfortune within the provisions of the statute providing for the vacation of judgments.

"In *Bradshaw vs. Des Moines Ins. Co.* 154 Iowa, 101, 134 N. W. 628, the statute provided that a default judgment must be set aside where a reasonable excuse was shown for having made the default. In that case service of summons was had upon the agent of the defendant company as provided by statute, but the agent failed to notify the company of such service. It was held that such showing did not constitute excusable neglect but was, instead, inexcusable neglect.

"See also *Davis vs. Steuben School Tp. of Warren County*, 19 Ind. A., 694, 50 N. E. 1; *M., K. & T. Ry. Co. vs. Ellis (Okla.)*, 156 Pac. 226; *Byrnes vs. American Mutual Fire Ins. Co.*, 114 Iowa 661, 87 N. W. 699;" *Lynch v. The Arizona Enterprise Mining Company*, (Supreme Court of Arizona, not yet officially reported).

In the case of *S. B. Reese Lumber Company vs. Licking Coal & Lumber Company*, 161 S. W. 1124, the Kentucky case above referred to, it appears that a foreign corporation by instrument filed in the office of the Secretary of State, duly appointed an employee, as agent for service of process, but at the time service was made on him in this case he was no longer an employee and did not notify the company. The company failed to appear to defend the suit and judgment was rendered against it for \$783.36. The court refused to reopen the case, stating that the default was due to the company's own negligence in not promptly appointing a successor to Cook when he left its employ.

Attorneys for corporations are naturally anxious to guard their clients against occurrences such as those described in the above cases. The system of The Corporation Trust Company offers a means of accomplishing this by keeping its attorney clients promptly informed of all papers served on a corporation. The agents supplied by The Corporation Trust Company System are trained in the handling of such matters. The cost of appointing them is a disbursement in the nature of insurance, well justified by good business judgment. We shall be glad to explain our system in detail to any attorney without obligation to him.

THE CORPORATION JOURNAL

STOCKHOLDERS' LIABILITY. "It is urged that at common law corporation creditors cannot hold stockholders liable on stock issued for property. Whatever it may be we need not discuss nor determine the rule at common law in this regard. A doctrine has been established in the United States which is altogether sufficient for resolving the present controversy. We refer to what has been termed the 'trust' doctrine as applied to unpaid subscriptions on the capital stock of a corporation." A hardware company was capitalized at \$50,000; the entire stock was exchanged for merchandise which cost the stockholders less than \$10,000. The United States Circuit Court of Appeals for the Ninth Circuit, says: "Such a project or scheme is a fraud at law upon the prospective creditors of the corporation, and when the corporation is found to be insolvent the stockholders cannot be heard to say that their stock has been fully paid up." *In re Phoenix Hardware Co.*, 249 Fed. 410.

CALIFORNIA.

DIVIDENDS MAY NOT BE PAID OUT OF PROCEEDS OF SALE OF CAPITAL STOCK even if sold by the corporation for more than its par value. "The phrase, 'capital stock,' as used in Section 309 of the Civil Code, means 'not the shares of which the nominal capital is composed, but the actual capital; *i. e.*, assets with which the corporation carries on its corporate business.' *Schulte v. Boulevard Gardens Land Co.*, 164 Cal. 464, 468, 129 Pac. 582, 44 L. R. A. (N. S.) 156, Ann. Cos. 1914 B, 1013. The sole purpose of selling stock is to acquire assets with which to carry on that business. This is equally true, whether the stock be sold at par, or below par, or above par." *Merchants' & Insurers' Reporting Co. v. Yontz*, 178 Pac. 540.

DELAWARE.

THE UNITED ARTISTS CORPORATION, with a capital of \$1,400,000., was incorporated during the latter part of April under the laws of Delaware. This corporation whose principals include Mary Pickford, Douglas Fairbanks, Charles Chaplin and D. W. Griffith has been given much prominence in the press of the country. The Corporation Trust Company of America was selected as registered agent.

IOWA.

VALIDITY OF DIRECTORS' MEETING HELD WITHOUT NOTICE. Failure to give notice of a directors' meeting is not material if all the members of the board appeared without it. Once appearing, the departure of one director could not nullify the action of the majority who remained. *Ney v. Eastern Iowa Telephone Co.*, 171 N. W. 26.

THE CORPORATION JOURNAL

KENTUCKY.

STOCKHOLDERS' LIABILITY ON STOCK RECEIVED AS BONUS. Subscribers to preferred stock received one share of common stock for each two shares of preferred stock. They knew that the common stock was not paid for and was a mere bonus. They are liable to creditors of the corporation for unpaid subscriptions. Under these circumstances, a greater payment than par for the preferred stock cannot be credited as payment on the common stock. *Stolcker v. Goodman*, 209 S. W. 374.

NEBRASKA.

LIMITATION UPON POWER OF MAJORITY STOCKHOLDERS TO AMEND ARTICLES OF INCORPORATION. A majority of the stockholders may not, by amending the articles of incorporation, deprive the minority, without their consent, of their contractual rights to dividends under the articles as originally adopted. "It is well known that powers of corporations recognized under legislative charters are only such as the statute confers, conceding what is fairly implied as much granted as is expressed. It remains that the charter of a corporation is a measure of its powers, and the enumeration of these powers implies the exclusion of all others. The amendment here sought changes the fundamental arrangement and plans of the corporation as organized in 1906, and hence the amendment sought is violative of the fundamental law of contracts." *Allen v. White*, 171 N. W. 52.

MASSACHUSETTS.

PROVISION FOR REPRESENTATION OF EMPLOYEES ON THE BOARD OF DIRECTORS. The 1919 session of the Massachusetts Legislature has enacted a law providing that a manufacturing corporation may, by by-law provision, arrange for the nomination and election by its employees of one or more of them as members of the board of directors. This act was approved on April 3, 1919, and constitutes Chapter 70 of the Laws of 1919. It reads as follows:

"Section 1. A manufacturing corporation may provide by by-law for the nomination and election by its employees of one or more of them as members of its board of directors.

Section 2. All elections under the provisions of section one shall be held at the works of the corporation on the day of the annual meeting, and the voting shall be by secret ballot.

Section 3. If less than a majority of those entitled to vote participate in the election there shall be no election, and the vacancy shall be filled as the by-laws may prescribe.

Section 4. A director elected by the employees shall have the same rights and powers and shall be subject to the same duties and responsibilities as a director elected by the stockholders. (Approved April 3, 1919.)"

NEW HAMPSHIRE.

NEW CORPORATION LAW. Chapter 92 of the Laws of 1919 enacts what is known as the "Business Corporation Law." Under this Law there may be formed any corporation for the purpose of carrying on any lawful business except banking, the construction and maintenance of railroads, insurance, the business of making contracts for the payment of money at a fixed date or upon the happening of some contingency, or the business of a trust company, surety or indemnity company, a safe deposit company, or a trading stamp company, or the business of issuing, selling or redeeming trading stamps, coupons, tickets or other similar devices. The attorneys for the first company organized under this new law utilized the Corporation Trust Company's System.

FEATURES OF THE NEW HAMPSHIRE BUSINESS CORPORATION LAW. May issue shares without par value; meetings of directors may be held outside of the state; stockholders' meetings shall be held within the state; no restriction on corporate name except that it shall not conflict with that of any other organization; no requirements as to residence of directors; existence may be perpetual; may hold such real and personal property within or without the state as the purposes of the corporation may require; incorporators exercise all the corporate powers until the stock to be issued in accordance with their votes shall have been issued; must have a clerk who shall be a resident of the state; issues of stock, after the original issue, must be authorized by vote of a majority of the stockholders; certificates showing the proposed plan upon which stock is to be issued must be approved by the Attorney-General and filed with the Secretary of State; records, accounts and papers of the corporation are open to the inspection of stockholders; amendments must be submitted for approval to the Attorney-General.

COST OF ORGANIZATION IS AS FOLLOWS:

Secretary of State

Organization tax.

On capital not over \$10,000.....	\$10
Over \$10,000 but not over \$50,000.....	25
Over 50,000 but not over 250,000.....	100
Over 250,000 but not over 500,000.....	150
Over 500,000 but not over 1,000,000.....	250
Each additional \$100,000 over \$1,000,000.....	10

Shares without par value are deemed to have a par value of \$50 for the purpose of fixing the organization tax.

TAXATION. Every corporation shall pay annually to the State Treasurer, at the time of making its annual report, a fee equal to one-fourth the amount paid upon filing its original record of organization plus one-fourth of additional payments for increases in its authorized capital stock, if any, provided that such annual fee shall not be less than \$5 nor more than \$100.

PROCEDURE FOR INCORPORATION. Three or more persons may associate together by articles of agreement to form a corporation. Any two of the first

THE CORPORATION JOURNAL

three persons signing the articles of agreement may call the first meeting of incorporators. At the organization meeting the incorporators effect an organization by the adoption of by-laws and by the election of a temporary clerk, a treasurer, a board of not less than three directors and such other officers as the by-laws may prescribe. The incorporators determine the amount of capital stock then to be issued and the consideration. The treasurer and a majority of the directors thereupon sign and make oath to the record of organization, which shall contain a true copy of the articles of agreement, the date of the organization meeting, the names and addresses of the officers and directors and the original or true copies of all votes passed authorizing the issuance of stock. The record of organization shall be submitted to the Attorney-General and, if it is in conformity to law, he shall so certify and endorse his approval thereon. The organization record shall, upon payment of the organization tax, be filed in the office of the Secretary of State, who thereupon issues a certificate of incorporation. The existence of every corporation begins upon the filing of the organization record in the office of the Secretary of State.

WHAT THE CORPORATION TRUST COMPANY DOES TO ASSIST ATTORNEYS IN THE INCORPORATION AND SUBSEQUENT STATUTORY MAINTENANCE OF A NEW HAMPSHIRE CORPORATION is briefly as follows:

At the time of incorporation, it ascertains if the name can be used and furnishes the attorney with a complete set of forms for reference, including copies of agreements of association which have been approved, files and records the necessary papers and assists the attorney in every way possible in the organization.

It will draft and submit the articles of incorporation; by-laws and incorporators' minutes; and, upon approval by the attorney, it will furnish complete facilities for incorporation, attend to the filing of papers, the holding of the necessary meetings and return the records to him in minute book form.

Attorneys wishing to keep complete control and absolute supervision over the organization of a New Hampshire corporation have found it advantageous and expedient to confer with the nearest office of the Corporation Trust Company System and to employ the services of its New Hampshire representatives.

Subsequent to incorporation the Corporation Trust Company furnishes the statutory office, clerk and agent in the state upon whom service of process may be had, acts as custodian of stock record books, furnishes rooms for holding stockholders' meetings or holds same by proxies, gives timely notice for filing state reports and tax returns and keeps counsel informed of changes in statutes pertaining to the corporate status.

For foreign corporations entering New Hampshire it drafts for approval and submits to the attorney all documents necessary to secure authority to do business in the state. After qualification it notifies the attorney of all reports and taxes to be paid.

An estimate of charges may be secured at our nearest office.

NEW YORK.

CONSIDERATION FOR ISSUE OF STOCK. Services rendered prior to incorporation are not valid consideration for the issue of stock, since such services

THE CORPORATION JOURNAL

are neither cash nor property within the meaning of the law. *American Macaroni Corporation v. Saumer*, 174 N. Y. Supp. 183.

DIRECTORS OR OFFICIALS PRESUMPTIVELY SERVE WITHOUT COMPENSATION. A mining engineer who was a director and vice-president of a mining corporation is not entitled to recover for services rendered in preparing maps and plans of the corporate property, in the absence of an express agreement of employment. *Fox v. Artic Placer Mining & Milling Co.*, 185 N. Y. App. Div. 761.

AGREEMENT BETWEEN STOCKHOLDERS AND THE CORPORATION FOR THE PURCHASE OF STOCKS AND BONDS UPON DECEASE OF ANY PARTY OR SEVERANCE OF CONNECTION WITH THE CORPORATION may be enforced in an action for specific performance. Where the price provided in the contract is "book value" of the stock this means "the value thereof as shown by the assets and liabilities as carried on the books of the company," and excludes "good will" when not carried as an asset. *Lane v. Barnard*, 185 N. Y. App. Div. 754.

INSURANCE RIGHTS OF A MERGED CORPORATION. A corporation which has acquired the property and franchise of another corporation under Section 15 of the New York Stock Corporation Law, is subrogated to its rights in an accident policy owned by it at the time of the merger. *Syracuse Lighting Company v. Maryland Casualty Co.*, N. Y. Court of Appeals, (not yet officially reported).

DISSOLUTION. Three brothers were the directors of a corporation and each owned one-third of the capital stock. Two of the brothers by a two-thirds vote removed the third and voted themselves excessive salaries. An action was immediately brought to restrain the payment of salaries in excess of the reasonable value of the services rendered whereupon the defendant brothers caused a resolution to be passed by the directors that it was advisable that the corporation be dissolved pursuant to section 221 of the General Corporation Law (Consolidated Laws, c. 23) and called a stockholders' meeting to pass upon the question. The court refused to prevent the dissolution since no method could be suggested for the continuance of the business as long as the brothers used the corporation and its business as a battle ground. *Kavanaugh v. Kavanaugh Knitting Co.*, 172 N. Y. Supp. 576

PENNSYLVANIA.

REMOVAL OF OFFICERS. The president or any other officers chosen by the directors are removable at the pleasure of the directors without the assignment of any cause, without the giving of any notice and without any trial or investigation into the grounds of removal. In the instant case the by-laws provided that the directors have the power "at any regular meeting by a majority vote of the directors * * * to remove any officer of the corporation." 100 Atl. 987.

THE CORPORATION JOURNAL

TENNESSEE.

CORPORATION PURCHASING ITS OWN STOCK. In Tennessee a corporation is not permitted to purchase shares of its own stock. This is the rule in the absence of statutory authority. If such a purchase is attempted, the corporation may recover of the stockholder the amount paid him on account of the transaction, or, if the corporation becomes insolvent, its receiver or assignee is entitled to such recovery. *Whaley v. King*, 206 S. W. 31.

TEXAS.

UNAUTHORIZED PURPOSES IN A CORPORATE CHARTER are treated as surplusage. Provisions purporting to authorize a corporation to engage in the practice of dentistry are void. *Aultz v. Zucht*, 209 S. W. 475.

FOREIGN CORPORATIONS.

GEORGIA.

"DOING BUSINESS" SO AS TO BE SUBJECT TO SERVICE OF PROCESS. A foreign railroad corporation which neither owns, leases, nor operates any line of road within the state of Georgia is not "doing business" within the state, in the sense that liability to service is incurred, because it maintains an office and employs an agent, resident in the state, for the merely incidental business of soliciting freight. *Vicksburg, S. & P. Ry. v. De Bow*, 98 S. E. 382.

IDAHO.

PENALTY FOR FAILURE TO QUALIFY. A contract or agreement which cannot be sued upon or enforced in any court of this state by an unqualified corporation is one growing out of the "doing of business in this state," or so connected therewith as to be an element of such transaction. When the contract or agreement sued upon proves to be one which was made and performed outside of this state, the question as to whether the foreign corporation was doing other business within the state is not material. *Bettilyon Home Builders Co. v. Philbrick*, 175 Pac. 958.

MISSOURI.

PURCHASE BY A CITIZEN OF MISSOURI OF ARTICLES IN ILLINOIS to be shipped to Missouri does not bring the selling Illinois corporation within the foreign corporation laws of Missouri. A note given in payment of such articles is valid. *German-American Bank v. Smith*, 208 S. W. 878.

PENNSYLVANIA.

QUALIFICATION BY A FOREIGN CORPORATION DOES NOT RELIEVE IT FROM GIVING SECURITY FOR COSTS required of a non-resident plaintiff. *National Rubber Company v. George*, 6 Pa. Corp. Rep. 31.

THE CORPORATION JOURNAL

TEXAS.

SALE AND INSTALLATION OF GASOLINE CONTAINER AND PUMP IS DOING BUSINESS in the state, so as to require qualification by a foreign corporation. "The performance of the contract was necessarily to be had in Texas. The employment of state labor and the purchasing of a portion of the material in this state for the installation of the machinery furnished appellant was in line with appellee's business and for pecuniary profit. The price agreed upon was not for the machinery alone or any part of the machinery, but was for the installation of the gasoline tank and pump, including all material and labor, and 'was in competition with citizens of this state transacting similar business.' Our conclusion is that the performance of the contract sued upon necessarily required the transaction of business in this state, and, as appellee had no permit to transact business here, the trial court erred in holding that it could maintain this suit." *Bryan v. S. F. Bowser & Co.*, 209 S. W. 189.

WEST VIRGINIA.

FOREIGN CORPORATIONS MAY HAVE PURPOSES FORBIDDEN TO DOMESTIC CORPORATIONS. "Where a state does not provide for the granting of a charter to domestic corporations of certain character, such non-action on its part is not in the nature of a prohibition against foreign corporations created for such purpose." U. S. Circuit Court of Appeals, Fourth Circuit, *Stump v. Sturm* 254 Fed. 535.

UNITED STATES CONGRESS.

THE RECONSTRUCTION SESSION TO BE CONVENED UPON CALL OF THE PRESIDENT will undoubtedly consider many new legislative measures of the greatest importance to corporations. We have a circular which discusses some of the more pressing problems and alphabetically lists other subjects which will probably be considered by this session. It also describes our Congressional Service. Copies may be had upon request and without charge.

TAXATION.

NEW MEXICO.

ANNUAL FRANCHISE TAX. The recent session of the Legislature of New Mexico has passed a law providing for an annual franchise tax to be levied on domestic and foreign corporations doing business in the state. Such corporations are required to file, on or before September 1, a franchise tax report with the State Tax Commission. The tax is due on or before November 30 and the rate for domestic corporations is \$10 for each \$100,000 or fraction thereof of authorized capital stock. For foreign corporations the tax is levied at the same rates upon the amount of authorized capital stock represented by property and business done in New Mexico.

THE CORPORATION JOURNAL

NEW YORK.

PERSONAL INCOME TAX LAW. A bill recently passed by the Legislature and now awaiting the action of the Governor, provides for the levying of a tax on the entire net income of every resident of New York State at the following rates:

One per cent of the amount of net income not exceeding \$10,000.

Two per cent of the amount of net income in excess of \$10,000, but not in excess of \$50,000.

Three per cent of the amount of net income in excess of \$50,000.

Nonresidents of New York State are required to pay a like tax on all net income derived from property owned and business, trade, profession or occupation carried on in this State.

Corporations and partnerships are not subject to the tax levied under the terms of this bill. The tax does, however, apply to the income of estates or of any property held in trust.

Returns shall be made by every taxpayer having a net income of \$1,000 or over, if single, or an income of \$2,000 or over, if married. Fiduciaries are responsible for the making of returns of income for estates or trusts. Partnerships are required to make returns showing gross income, the names of the individuals entitled to a share in the net income and the distributive share of each such individual. The returns shall be filed with the State Comptroller on or before March 15th and the tax should be paid at the same time.

Individuals, corporations, associations and partnerships having the control, receipt, disposal or payment of interests, rents, salaries, wages, premiums, annuities or other fixed or determinable annual gains, profits or income are required to withhold 2 per cent from such fixed or determinable amounts unless a certificate is filed with such withholding agent to the effect that the person entitled to payment is a resident of the State. The withholding agent is required to pay to the State Comptroller such sums as may have been withheld.

In view of this provision a nonresident who is subject to a tax at the rate of one per cent annually will be obliged to collect from the State the additional one per cent which has been withheld and turned over to the State by the withholding agent.

A specific exemption of \$1,000 is allowed to individuals who are single, \$2,000 to persons who are married and living with husband or wife and an additional \$200 for each dependent under eighteen years of age or incapable of self-support because physically or mentally defective.

The provisions of the bill with respect to the determination of gain and loss and the amount of net income and the items that may be deducted are very similar to those found in the Federal Income Tax Law. The bill also provides that money on hand or on deposit, bonds, notes, choses in action and shares of stock in corporations other than banks, owned by any individual subject to the income tax, are not to be included in the valuation of personal property included in the assessment rolls of the various tax districts.

Copies of this law will be sent by us upon request and without charge.

CORPORATION INCOME TAX. In a bill recently passed by the Legislature and now in the hands of the Governor for action, various changes have been made in

THE CORPORATION JOURNAL

the law providing for a franchise tax based on the net income of corporations doing business in this State. The principal changes are the increase in the rate of tax from 3 per cent to 4½ per cent and the extension of the provisions of the act to all business corporations, except those specifically exempted. Heretofore the act applied only to manufacturing and mercantile corporations. A statement has been included that the term "entire net income" means the total net income before any deductions have been made for taxes paid or to be paid to the United States Government.

Copies of the law as amended will be sent by us upon request and without charge.

NEW YORK INCOME TAX SERVICE. In view of the new income tax laws awaiting action by the Governor, and the probability that there will be many involved points requiring official interpreting expressions, we contemplate the instituting of a Service in regard to this law—similar to our Federal Income Tax Service. We feel that such a Service will be received with the same degree of appreciation that has been accorded our well-known Federal Tax Services.

NORTH DAKOTA.

ANNUAL LICENSE TAX. The Legislature of North Dakota recently passed an Act which becomes effective July 1, 1919, levying an annual excise tax on domestic and foreign corporations. In the case of domestic corporations the tax is at the rate of fifty cents for each \$1,000 of the fair value of the capital stock or bonds issued and in estimating such fair value the surplus and undivided profits are to be included. For foreign corporations the tax is fifty cents for each \$1,000 of the capital actually invested in the transaction of business in North Dakota, provided that in case of a corporation doing business partly within and partly outside of the State investment within the State shall be held to mean that proportion of the entire stock and bond issue which the business of the company within the State bears to its local business wherever done. If the business within the State is not otherwise more easily and certainly separable from the entire business, said business within the State shall be held to mean such proportion of the entire business of the corporation as the property within the State of North Dakota bears to the entire property of the corporation.

The Act provides for the filing of an annual report on or before March 1st in each year after 1919. For the year 1919 the report shall be filed on or before August 1st.

PENNSYLVANIA.

TAX ON CERTIFICATES OF INDEBTEDNESS ISSUED BY A RECEIVER. Certificates of indebtedness issued by a receiver, are for corporate purposes and are issued by the company within the meaning of the taxing statutes. Commonwealth v. Wabash-Pittsburgh Terminal Railway Co., 7 Penn. Corporation Reporter 177.

THE CORPORATION JOURNAL

TENNESSEE.

MORTGAGE TAX IS UNCONSTITUTIONAL. Acts of 1917, c. 70, imposing a tax on mortgage, and deeds of trust to be levied "in lieu of all other taxes" is unconstitutional. It exempts registered mortgages and deeds of trust from ad valorem taxation in violation of Const. Art. 2, sec. 28. *State v. American Trust Co.*, 208 S. W. 611.

INCOME TAX.

For preceding references, see 3 Corporation Journal, page 351.

A letter from the Commissioner relates to computation of discount and interest for taxation purposes (p. 432).

An official announcement sets forth the membership of the advisory tax board (p. 433).

A Treasury Decision relates to extension of time for filing returns of partnerships whose fiscal year ended in 1918 (p. 434).

A Treasury Decision states that amended returns may be accepted so that the taxable year of affiliated corporations will coincide (p. 434).

A telegram from the Commissioner relates to forms for making returns by nonresident aliens (p. 434).

International reciprocal personals specific exemption allowances is the subject of a telegram from the Commissioner (p. 434).

A letter from the Commissioner states that specific penalty will not be asserted if delinquent returns are filed by May 1 (p. 435).

A decision by the United States Supreme Court holds a certain Massachusetts trust not to be an association under the act of October 3, 1913 (p. 435).

A Treasury Decision extends the time for filing returns by taxpayers temporarily residing in Alaska (p. 438).

New articles are added to Regulations 45 and relate to credit for a personal exempt tax and for dependents in the case of nonresident alien individuals and to allowance of credits to a nonresident alien employee (p. 438).

A telegram from the Commissioner relates to substantial loss because of material reduction of value of inventory for the taxable year 1918 (p. 439).

A telegram and letter from the Commissioner discusses the manner of determining the amount of exempt interest from Liberty Bond holdings (p. 440).

A Treasury Decision makes corrections in Form 1120 (p. 440).

A telegram from the Commissioner relates to dates for acceptances of old ownership certificates (p. 441).

Releasing the 2% tax withheld against nonresident foreign corporations on dividends is the subject of a letter from the Department (p. 441).

A telegram from the Commissioner gives further information in regard to the manner of determining amount of exempt interest from Liberty Bond holdings (p. 441).

According to letter from the Commissioner, the 10% undistributed profits tax is considered an income tax and is not deductible (p. 441).

THE CORPORATION JOURNAL

A Treasury Decision relates to returns of income by or for nonresident alien individuals (p. 442).

A telegram from the Commissioner relates to substantial loss against material reduction of value of inventory for the taxable year 1918 (p. 443).

The status of undistributed profits, unduly accumulated, if invested in United States Bonds, is the subject of a letter from the Commissioner.

A telegram by the Commissioner states that interrogatories upon ownership certificates are to be answered fully (p. 443).

Consolidated returns of public service corporations is the subject of advice by the Commissioner (p. 443).

A letter from the Commissioner relates to consolidated returns where the percentage of holdings in two companies differs (p. 443).

Interest on Food Administration Grain Corporation Notes is the subject of a telegram from the Department.

► An official statement by the Secretary of the Treasury relates to exempt status of interest on Victory Liberty Loan Notes.

An announcement by the Commissioner relates to extension of time for complete corporate returns and for filing certain returns, not the basis for assessment of tax (p. 445).

A telegram from the Department states that extension of time to June 15, 1919, applies to certain fiscal year corporations (p. 445).

A letter by an acting Commissioner relates to consolidated returns by public service corporations (p. 446).

An announcement is made in regard to extension for filing returns to June 15, 1919 (p. 446).

(NOTE—The page references are to our Income Tax Services, 1919, wherein the foregoing rules and regulations are printed in full.)

EXCESS PROFITS TAX.

For preceding references see 3 Corporation Journal, page 352.

A letter by an acting deputy Commissioner relates to Federal Reserve Bank stock (p. 277).

A letter by the Commissioner discusses tangible property paid in and value in excess of par value stock (p. 277).

Announcement is made as to membership of the advisory tax board (p. 277).

A letter from the Commissioner reverses holding in regard to Federal Reserve Bank stock and concludes that such stock is an inadmissible asset in determining invested capital for excess profits tax purposes (p. 278).

A Treasury Decision makes a correction in Form 1120, the corporation income profits tax return form (p. 278).

A letter by an assistant to the Commissioner states that a corporation with no taxable income is not required to fill out profits-tax schedule on Form 1120 (p. 278).

The corporation income and profits tax return form is reprinted in full (pages 279 to 287).

A letter from the Department relates to the manner of determining average prewar profits and invested capital (p. 288).

THE CORPORATION JOURNAL

An official announcement states the status of War Finance Corporation bonds as admissible and inadmissible assets (p. 288).

A telegram by the Commissioner relates to interest bearing one year loan to corporation by stockholder as invested capital (p. 288).

A telegram by the Commissioner states that if a corporation elects the 10% minimum war profits credit, prewar data is not required (p. 288).

Provisions of the Victory Liberty Loan Act in regard to exemption of interest are set forth in full (pages 289 to 291).

An official statement by the Secretary of the Treasury relates to the exempt status of interest on Victory Liberty Loan Notes (p. 291).

The Commissioner writes a letter in regard to Liberty Loan interest exemption, consolidated returns and bonds all being owned by a foreign corporation (p. 291).

A letter from the Commissioner relates to the original issue of stock sold at par on commission and its effect on invested capital (p. 292).

A ruling by the Commissioner pertains to depreciation of tangible property added to invested capital as paid in surplus (p. 293).

(NOTE—The page references are to our War Tax Service, 1919, wherein the foregoing rules and regulations are printed in full.)

CAPITAL STOCK TAX.

For preceding references see 3 Corporation Journal page 260.

A Treasury Decision relates to liability to capital stock tax by railroad corporations whose properties are held and operated by the Federal Government (p. 611).

(NOTE—The page references are to our War Tax Service, 1919, wherein the foregoing ruling is printed in full.)

STAMP TAXES.

For preceding references see 3 Corporation Journal, page 352.

A Treasury Decision relates to collection of tax on playing cards, on and after April 1, 1919, and returns of manufacturers and importers of playing cards (p. 743).

A telegram by the Commissioner states that promissory notes issued by the Food Administration Grain Corporation are subject to Stamp Tax (p. 745).

A telegram from the Commissioner relates to Stamp Tax on time drafts originating and delivered abroad (p. 745).

NOTE—The page references are to our War Tax Service 1919 wherein the foregoing rulings are printed in full.

EXCISE TAXES.

For preceding references see 3 Corporation Journal, page 352.

An announcement by the Bureau of Internal Revenue relates to the tax on jewelry and other articles sold by dealers imposed by Section 905 (p. 919).

THE CORPORATION JOURNAL

A telegram from the Commissioner relates to sales to the United States Government and quasi-governmental organizations (p. 920).

► An official announcement relates to extension of time for filing first returns for taxes imposed by sections 900 and 902 (p. 920).

(NOTE—The page references are to our War Tax Service, 1919, wherein the foregoing are printed in full.)

UTILITIES AND INSURANCE.

No rulings or regulations have been issued since our last report. See 3 Corporation Journal, page 353.

ADMISSIONS AND DUES.

Regulations No. 43, revised, were released on April 3, 1919, and are reprinted in full (pages 1315 to 1331).

(NOTE—The page references are to our War Tax Service, 1919.)

FEDERAL RESERVE.

For preceding references see 3 Corporation Journal, page 353.

Regulations F, series of 1919, relate to the trust powers of national banks and supersede regulations for the same purpose issued in 1917 (pages 741 to 744).

Rulings of the Board relate to rediscount of paper secured by Government obligations, to Section 11 (k) of the Federal Reserve Act to security covering acceptances in excess of 10%, to loans by branch banks upon the security of growing sugar crops and to applicability of Section 8 of the Clayton Anti-Trust Act to banks located in suburban districts (pages 745 to 757).

Opinions by the Law Department relate to Section 11 (k) of the Federal Reserve Act, to security covering acceptances in excess of 10% and to right of national banks locating in Hawaii to exercise fiduciary powers (pages 757 to 761).

Miscellaneous matters include amendments to state banking laws by North Carolina, South Dakota, Tennessee, West Virginia and Wyoming (pages 761 to 765).

(NOTE—The page references are to our Federal Reserve Act Service, which reports all rulings and regulations of the Federal Reserve Board.)

FEDERAL TRADE COMMISSION.

Complaints have been added to the docket since our last report (Supplementary pages 93 to 96).

(NOTE—The page references are to our Federal Trade Commission Service.)

PUBLICATIONS.

The following publications may be obtained without charge from the nearest office of The Corporation Trust Company System:

NEW YORK STATE PERSONAL INCOME TAX LAW, text in full of the act passed by the Legislature, April 19, 1919, and at time of this writing not approved by the Governor.

THE CORPORATION JOURNAL

NEW YORK CORPORATION INCOME TAX LAW, as amended by the 1919 Legislature.

TEXT OF COVENANT OF LEAGUE OF NATIONS and address of President Wilson, including address of President to Congress, January 8, 1918, setting forth peace terms, "Fourteen Points."

WAR REVENUE ACT, 1918 is the title of our pamphlet, which contains a complete copy of the text of the new federal tax law, approved by the President February 24, 1919.

ISSUANCE, TRANSFER AND REGISTRATION OF CORPORATE STOCK is the title of a pamphlet printed to supply the demand for the information on these subjects.

THE CORPORATION JOURNAL issued monthly except in July and August.

DISCUSSION OF PRACTICE AND PROCEDURE UNDER THE EXPORT TRADE ACT, issued by the Federal Trade Commission.

WAR REVENUE ACT OF 1917 contains complete text of War Income, War Excess Profits Tax, Excise, Stamp Taxes, etc., in effect October 4, 1917.

INCOME TAX PRIMER, prepared by the Bureau of Internal Revenue and reproduced as a supplement to the Income Tax Service, 1919, of The Corporation Trust Company.

EXCESS PROFITS TAX PRIMER, prepared by the Bureau of Internal Revenue, and reproduced as a supplement to the War Tax Service, 1918, of The Corporation Trust Company.

FEDERAL TRADE COMMISSION ACT AND THE CLAYTON ACT are reprinted from The Corporation Trust Company's Federal Trade Commission Service.

BUSINESS CORPORATIONS UNDER THE LAWS OF DELAWARE is the title of a pamphlet containing the advantages of the law, statutory requirements and forms, including a description of shares without par value. The General Corporation Laws are published in a separate booklet.

THE LAWS OF MARYLAND relating to Business Corporations are available in pamphlet form.

THE GENERAL CORPORATION ACT OF NEW JERSEY, as published by the Department of State, may be secured at any of our offices.

BUSINESS CORPORATIONS UNDER THE LAWS OF MAINE is the title of a pamphlet which contains a description of advantages of incorporation under Maine laws, features of shares without par value, statutory requirements and forms. The text of the statutes relating to business corporations is also available in a separate pamphlet.

THE CORPORATION JOURNAL

NEW YORK NON-PAR VALUE LAW, a reprint of Corporation Journal No. 35, contains a copy of the New York non-par value law and a copy of the certificate of incorporation of the Wisconsin Edison Company, the first large company incorporated thereunder.

EXTRACTS FROM THE STATUTES OF THE VARIOUS STATES RELATING TO THE ADMISSION OF FOREIGN BUSINESS CORPORATIONS may be had by counsel who are interested in the qualification of a particular corporation in a State or group of States. These printed statements show the documents to be filed, fees and taxes to be paid and the statutory penalties for failure to comply in the States under consideration.

SOME IMPORTANT MATTERS FOR APRIL AND MAY.

This calendar does not purport to cover general taxes or reports to other than State officials or those we have been officially advised are not required to be filed. The State Report and Tax Service maintained by The Corporation Trust Company System sends timely notice to attorneys for subscribing corporations of reports and tax matters requiring attention from time to time, furnishing information, forms, practices and rulings.

ARIZONA	Report to Corporation Commission and Registration Fee due during June—Domestic and Foreign Corporations.
ARKANSAS	Franchise Tax Report due on or before June 1—Domestic and Foreign Corporations.
CALIFORNIA	Corporation Franchise Tax due on or before 1st Monday in July—Domestic and Foreign Corporations.
COLORADO	Report to State Auditor due on or before June 1—Domestic and Foreign Corporations.
DELAWARE	Annual Franchise Tax due between the third Tuesday in March and July 1—Domestic Corporations.
MAINE	Annual Tax Return due on or before June 1—Domestic Corporations.
MONTANA	Annual License Tax based upon net income due between June 1 and 15—Domestic and Foreign Corporations.
NEBRASKA	Annual Report due during April or May—Foreign Corporations.
	Annual Report and Fee due on or before July 1—Domestic Corporations.

THE CORPORATION JOURNAL

SOME IMPORTANT MATTERS FOR APRIL AND MAY—Continued.

NEW JERSEY Annual Tax Return due on or before first Tuesday of May—Domestic Corporations.

 Franchise Tax due on or before first Monday in June—Domestic Corporations.

NEW YORK Annual Return of net income due on or before July 1—Domestic and Foreign Manufacturing and Mercantile Corporations.

NORTH CAROLINA Capital Stock Report to determine amount of franchise tax due during May—Domestic Corporations.

OHIO Annual Report due during May—Domestic Corporations.

OREGON Annual Statement due during June—Domestic and Foreign Corporations.

RHODE ISLAND Corporate Excess Tax due on or before July 1—Domestic and Foreign Corporations.

TENNESSEE Annual Report and Franchise Tax due on or before July 1—Domestic and Foreign Corporations.

UNITED STATES Income Tax—quarterly installment due June 15—Domestic and Foreign Corporations.

WASHINGTON License Tax due on or before July 1—Domestic and Foreign Corporations.

WEST VIRGINIA Annual License Tax due on or before July 1—Domestic and Foreign Corporations.

 Fee to State Auditor as Attorney in Fact due on or before June 30th—Foreign and Non-resident Domestic Corporations.

 Tax Statements due on or before July 1—Domestic Corporations.

Responsibility and Experience

ARE the two vital factors to be considered in selecting a Transfer Agent. The first that you may be assured that the issuance and transfer of your stock is handled by a trustworthy institution, the second that it has the knowledge to insure compliance with all the laws and the approved practices governing transfers. We offer to corporations a service as transfer agent or registrar combining all the qualifications expressed by the words responsibility and experience.

A pamphlet entitled "Issuance, Transfer and Registration of Corporate Stock," containing a reprint of our advertisements on these subjects, will be sent without charge to those who ask for it.

THE CORPORATION TRUST COMPANY
37 WALL STREET, NEW YORK

114